

**HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5219 OF 2005.**

Ramchandra Mahadeo Mahadik. ..Petitioner.
Versus.
Sarpanch, Grampanchayat
Jalgaon & Ors. ..Respondents.

Shri. A. G. Kundekar for the Petitioner.
Shri. J. K. Jadhav for the respondent No.1.
Smt. Deepa P. Chawan i/b Prashant P. Chawan for
respondent no.2.
Shri. A. P. Vanarse, A.G.P. for respondent no.3.

**CORAM: S.B.MHASE, J.
DATE : APRIL 12, 2006.**

P.C.

1. Heard. Perused the record. It appears that when the original permission for Non-Agricultural use was granted, area admeasuring 38 sq. meters have been shown towards the road, portion marked "B". The petitioner is the subsequent purchaser of the said property. Therefore, he will not get a better title than the title of his predecessor.

2. Learned counsel for the petitioner, on instructions from the petitioner, states that 38 sq. meters portion will be left out as a road as per the N.A. permission. He has submitted that his construction may be regularised.

3. Learned counsel Shri. J. K. Jadhav for the

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respondent No.1, Grampanchayat, states that the Grampanchayat was interested in maintaining the road for the villagers, therefore, action was taken. He further submits that since, now the petitioner has shown a willingness to keep the road to the extent of 38 sq. meters, Grampanchayat will take steps to regularise the construction carried out by the petitioner and it will not take action of demolition and for that purpose the petitioner shall make an appropriate application to the grampanchayat. Learned counsel further submits that on the said application the decision in respect of the regularisation will be taken within a period of four weeks. He further submits that the petitioner shall remove the fencing put up on road. The learned counsel for the petitioner states that the fencing which has been put up on road will be taken away and road admeasuring 38 sq. meters will be given for the use of the villagers. In view of the concession given by both side counsel, following order is passed.

: ORDER :

(1) The Petitioner shall keep an area admeasuring 38 square meters open as a road, since it is shown in the original Non Agricultural use Permission granted in favour of the predecessor-in-title of the petitioner.

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(2) The petitioner shall make an application to the Grampanchayat for regularisation of the construction and the Grampanchayat shall pass an appropriate resolution and order to regularise the said construction within a period of four weeks, without imposing any penalty. However, the Grampanchayat will be entitled for imposition of assessment as per the Rules.

(3) Petitioner shall remove the fencing put up on the road and made the road available to the public at large immediately.

(4) Petition is accordingly disposed of.

(S.B.MHASE, J.)